

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

LA.App..No. 260 of 2003(D)

LAR.556/1999 of PRL.SUB COURT, KOZHIKODE
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APPELLANT: RESPONDENT

STATE OF KERALA

BY GOVERNMENT PLEADER SRI K.V.MANOJ
SRI.RAJAN JOSEPH, ADDL.A.G.

RESPONDENT: CLAIMANT

C.E.SREEDHARAN, S/O. LATE RAMANKUTTY,
KODOLL HOUSE, KUNNAMANGALAM POST.

BY ADV. SRI.K.A.SALIL NARAYANAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD
ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

I.A. 3334/2005 IN LAA 260/2003

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DISMISSED

14.11.2007.

ID/- KURIAN JOSEPH, JUDGE
ID/- HARUN-UL-RASHID, JUDGE.

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. 260 of 2003-D

Dated: November 14, 2007

JUDGMENT

Kurian Joseph, J.

This appeal is filed against the judgment and decree in LAR 556/1999 on the file of the Sub Court, Kozhikode. The acquisition is for the purpose of CEDT, Chathamangalam. The sec.4(1) notification was published on 26.4.1997. The award was passed on 27.11.1998. The land acquisition officer fixed the market value of the land at Rs.6874/- per cent. The reference court fixed the market value at Rs.20,000/- per cent. Aggrieved, the appeal.

2. It is seen that the claimant has placed reliance on Exts.A4 and A5 transactions and Ext.A6 judgment. The claimant has also taken out a commission and Ext.C1 report and Ext.C2 plan were marked. According to the advocate commissioner, the acquired property would fetch more value than Ext.A4 property. Ext.A4 was proved through AW.2. However, the reference court found that there was no evidence available regarding the similarity and comparability of Ext.A4 property with the acquired property. Same was the view taken in respect of the property covered by Ext.A6 judgment also. However, the reference court proceeded further in examining the case and in the process the court took the view that Exts.A4 to A6 can be taken into consideration for the purpose of fixing the proper market value in this case. It was also found that in respect of Ext.A5

transaction, which is admittedly of a property of lesser importance, land value has been given at Rs.14750/- per cent. That property was lying 7 ft. below the road level. Taking note of the potentiality of the acquired land and in view of the earlier transactions near the acquired property, the reference court fixed the land value at Rs.20,000/- per cent which, in our view, is a just, proper and reasonable fixation of market value. There is no justification in totally discarding the evidence of AW.2 and the advocate commissioner. AW.2 has stated that Ext.A4 transaction is in the normal circumstances. It is also seen that this court has already dismissed the appeals arising out of Ext.A6 common judgment by the judgment in LAA Nos.878/2001, 1042/2001 and 339/2005. For all the above reasons we do not find any merit in this appeal. It is accordingly dismissed.

**KURIAN JOSEPH
JUDGE**

**HARUN-UL-RASHID
JUDGE.**

mt/-

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. No.260/2003

JUDGMENT

14.11.2007